
APPLICATION NO.	24/00494/VARN
APPLICATION TYPE	VARIATION OF CONDITIONS - NORTH
REGISTERED	29.02.2024
APPLICANT	Mr J Hooper
SITE	Foxcotte Barn, Foxcotte Lane, Foxcotte, SP10 4AB, CHARLTON
PROPOSAL	Vary condition 7 of 20/02019/FULLN (Retention of central warehouse facility supplying "members only" shops, ancillary members-only shop and storage facility for charity outreach operations) to extend the permitted opening hours of the members-only retail shop to 20:00 hours on Thursdays and Fridays and to 18:00 hours on Saturdays
AMENDMENTS	Additional information submitted by the applicant's agent on 27.03.24 and 03.04.24
CASE OFFICER	Gillian Wheeler

Background paper (Local Government Act 1972 Section 100D)

[Click here to view application](#)

1.0 INTRODUCTION

1.1 This application has been called to Committee by a Ward Member because it raises issues of more than local public interest.

2.0 SITE LOCATION AND DESCRIPTION

2.1 Foxcotte Barn is a rectangular building of concrete block and corrugated metal sheet construction set at a raised height above Foxcotte Lane and located within a large plot with a tarmac car park. Public Right of Way (PROW) Charlton 742 runs to the south of the site.

2.2 The building contains a warehouse which serves the Plymouth Brethren Community Church (PBCC) supplying PBCC owned and operated independent schools and retail facilities. In addition, the building contains a 'members only' ancillary shop used solely by members of the PBCC. The use of the building was permitted under application 20/02019/FULLN (see para.4.2).

2.3 To the west, the site is bounded by open fields, there are two semi-detached residential properties to the south of the site and one to the north-east of the site.

3.0 PROPOSAL

3.1 The application has been submitted under Section 73 (s73) of The Town and Country Planning Act (1990) as amended, which allows for planning application to be made for the variation or removal of a condition on an existing planning permission. In this instance, the application seeks to vary the opening hours of the retail shop permitted under 20/02019/FULLN.

3.2 The existing opening hours for the shop were approved under condition 7 of application 20/02019/FULLN:

The retail shop shall only open between the hours of 08:00-18:00 Monday-Friday and 08:00 – 13:00 on Saturday and not at all on Sundays or Bank Holidays.

Reason: To protect the amenities of neighbouring residential properties in accordance with Policy E8 of the Test Valley Borough Revised Local Plan 2016.

3.3 This application proposes the following, extended opening hours:

The retail shop shall only open between the hours of 08:00-18:00 Mondays, Tuesdays and Wednesdays; 08:00-20:00 on Thursdays and Fridays and 08:00-18:00 on Saturdays, and not at all on Sundays or Bank Holidays.

3.4 This would result in the shop being open for an additional 2 hours on Thursdays and Fridays from 18:00 until 20:00, and for an additional 5 hours on Saturdays from 13:00 until 18:00. Opening hours on Mondays, Tuesdays and Wednesdays would remain as per the original permission. The shop would also remain closed on Sundays and Bank Holidays.

3.5 The applicant explains that the increase opening hours are being requested to facilitate visits to the shop in accordance with the cultural beliefs of the PBCC community.

4.0 **HISTORY**

4.1 22/02159/FULLN - Erection of lean-to store to west side of warehouse (Retrospective). Permission 23.11.2022

4.2 20/02019/FULLN - Retention of central warehouse facility supplying "members only" shops, ancillary members-only shop and storage facility for charity outreach operations – Permission 22.12.2020

4.3 13/01553/VARN - Removal of condition 2 of TVN.00902/6 (Change of use to storage and distribution of fencing materials, agricultural/horticultural sundries and hand tools with alterations to doors and windows) to allow other occupiers of the building – Permission 11.09.2013

4.4 TVN.00902/6 - Change of use to storage and distribution of fencing materials, agricultural/horticultural sundries and hand tools with alterations to doors and windows – Permission 26.06.1997

5.0 **CONSULTATIONS**

5.1 **Environmental Protection: Comment, summarised as follows:**

- Extension in hours relates purely to the retail operations, significantly not the warehousing operations which will remain restricted to current hours.

- Retail operations tend to be less impactful than warehousing.
- Proposals for extension on Saturday afternoons strikes me as one in keeping with the vast majority of retail uses – appears to me that the number of customer visits will be limited in practice and therefore, on balance, I do not object.
- Proposals for extension two evenings per week – not expected that added impact would be high, would encroach in to the more sensitive evening periods – a line on what hours are acceptable in this location has to be drawn somewhere.
- Unable to offer a firm recommendation one way or the other – this is a matter of judgement to be considered on the full planning arguments for and against this proposal.

6.0 **REPRESENTATIONS** Expired 29.03.2024

6.1 **Charlton Parish Council: Objection**

- The extended hours have already been provided without public notice.
- Additional noise and disturbance.
- Request that the application is determined by planning committee due to its complexity.

6.2 **Two objections have been received from Foxcotte Cottage and are summarised below:**

- The hours have already been extended by the applicant.
- The applicants should not be given preferential treatment.
- The Environmental Protection Officer recommended opening hours from 08:00 until 18:00 Monday to Friday on 20/02019/FULLN.
- Intensification of use of the site.
- There has also been retail activity on Sundays.
- There are 6 air conditioning units on the building instead of the 2 approved.
- Outside lighting has been increased without permission.
- The school mini-bus service is having a detrimental impact on amenity.
- The warehouse opening and deliveries are not being undertaken in accordance with 20/02019/FULLN.
- Noise disturbance from engines running in the car park, slamming of car doors and car alarms.
- Noise disturbance from the shop alarm, crashing trolleys and children playing in the car park.
- Extending the opening hours would make a mockery of the original limitations.
- There are not enough users of the site to justify extended hours.
- The users of the site could shop elsewhere after the shop closes.
- The land adjacent to the application site has a lawful residential use for Foxcotte Cottage with a seating area which was created with the existing opening hours of the application site in mind.
- Young mothers do not need 3 hours to complete their shopping.
- Concerns regarding the existing warehouse being incorporated into the retail area.
- The 'Super Saturdays' could finish at 1pm rather than 6pm.

- Concerns regarding the future ‘stretching-out’ of any amended opening hours.

Officer note: The air conditioning units, lighting, school buses and warehouse uses do not form part of this application.

7.0 **POLICY**

7.1 Government Guidance

National Planning Policy Framework (NPPF)

National Planning Practice Guidance (NPPG)

7.2 Test Valley Borough Revised Local Plan (2016)(TVBRLP)

Policy SD1 – Presumption in Favour of Sustainable Development

Policy COM2 – Settlement Hierarchy

Policy LHW4 – Amenity

Policy E8 - Pollution

7.3 Neighbourhood Plan

Charlton Neighbourhood Plan, March 2021

- Policy CNP18 – Retention of local shops and businesses

8.0 **PLANNING CONSIDERATIONS**

8.1 The main planning considerations have been assessed under the original planning application 20/02019/FULLN. This application assessed the following:

- Principle of development
- Amenity
- Highway Matters
- Planning Balance

The development remains as previously permitted except for the proposed changes to the retail shop opening hours. As a result, the main planning consideration is:

- Impact on amenity of neighbouring property
- Impact on highway safety onto the local road network

8.2 **Impact on amenity of neighbouring property**

The retail premises would continue to be restricted to use only by members of the PBCC. Members of the general public would not have access to the shop. The applicant’s agent states that the proposal “.....*would not result in an intensification of the use, given that the shop can only be used by members of the Brethren, but will simply dilute the existing footfall across the slightly longer opening hours*”. By extending the opening hours of the retail premises as proposed, additional impacts on surrounding neighbouring dwellings including Foxcotte Cottage immediately to the east and numbers 1 and 2 New Cottages located to the south, would possibly arise from vehicles arriving and departing, noise from the closing of car doors along with noise from people talking as they are using the site.

- 8.3 A complaint was received by the Council's environmental protection team in November 2023 relating to the site. This complaint related to the use of the site outside of the permitted trading hours and associated noise from car movements. This matter was dealt with by the planning enforcement team and was resolved through the applicant reverting back to their permitted trading times. The environmental protection officer has confirmed that no further investigation by them was necessary and the case was closed in December 2023.
- 8.4 The opening hours for Mondays, Tuesdays and Wednesdays would remain as originally permitted and taking into account that there would be no use of the site on Sundays/Bank Holidays, it is considered that whilst the increase in opening hours may result in some additional noise during the extended period, such noise would not be so significant in terms of its intensity and duration as a change to the existing permitted use that would result in adverse impacts on the occupiers of residential dwellings immediately adjacent to the site. The proposals are considered to comply with policies E8 and LHW4 of the Test Valley Borough Revised Local Plan 2016.
- 8.5 Other amenity considerations
Concerns about the general operation of the site including:
- Use of air-conditioning units
 - Increase in outside lighting
 - Use of the site for school mini-bus drop off/pick up point
 - Use of warehouse outside of approved hours
 - Use of the site on Sunday's
- are not material to the determination of the current application.
- 8.6 **Impact on highway safety**
The number and frequency of vehicles entering and leaving the site are not considered to be materially different to that which has already been granted permission, if the extended hours are to be permitted. Satisfactory visibility is afforded by the egress point such that vehicles existing the site can do so safely in this location. The proposal to increase hours of operation would not result in an adverse effect on highway safety, in accordance with Policy T1 of the TVBRLP.
- 8.7 **Other matters**
Need
Concerns have been raised regarding the need of the shop to have extended opening hours and this being contrary to the original permission. It should be noted that as the use of the site is permitted and established, the need for the increased opening hours does not need to be demonstrated.
- 8.8 S73 Permission
Permission granted under Section 73 (s73) of The Town and Country Planning Act (1990) as amended takes effect as a new, independent permission to carry out the same development as previously permitted subject to new or amended conditions. The following recommendation includes the extended opening hours

for the retail use (condition 7) along with re-stating the other conditions previously imposed in accordance with National Planning Practice Guidance (NPPG).

9.0 **CONCLUSION**

9.1 The application considers the proposed increase of opening hours for the retail use only. On this basis, it is considered that the increase proposed would not result in any adverse impacts on the occupiers of the residential dwellings immediately adjacent to the site, or have any adverse effect on the safety of the local highway network. The proposals are therefore considered to comply with policies E8 and LHW4 of the Test Valley Borough Revised Local Plan 2016.

10.0 **RECOMMENDATION**

PERMISSION subject to conditions & notes

1. **The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans, numbers 2011/03A, 2011/02A, 2011/01B**
Reason: For the avoidance of doubt and in the interests of proper planning.
2. **Deliveries from the site shall only be undertaken between the hours of 07:30-18:00 Monday to Friday.**
Reason: To protect the amenities of neighbouring residential properties in accordance with Policy E8 of the Test Valley Borough Revised Local Plan 2016.
3. **Deliveries to the site and any external work shall only be undertaken between the hours of 08:00-18:00 Monday to Friday.**
Reason: To protect the amenities of neighbouring residential properties in accordance with Policy E8 of the Test Valley Borough Revised Local Plan 2016.
4. **Internal work inside the unit shall only be undertaken between the hours of 07:00- 19:00. Monday to Friday the hour between 18:00 - 19:00 shall be carried out with the roller shutter doors closed and 08:00-13:00 on Saturdays.**
Reason: To protect the amenities of neighbouring residential properties in accordance with Policy E8 of the Test Valley Borough Revised Local Plan 2016.
5. **No goods, materials or plant shall be stored outside other than in the pallet storage, empty cage storage and lean to store as shown in drawing 2011/01/B**
Reason: To protect the amenities of the character of the area in accordance with Policy E2 of the Test Valley Borough Revised Local Plan 2016.
6. **No external plant as shown in drawing 2011/01/B shall operate between the hours of 18:00 and 08:00 Monday to Friday and not at all on Saturdays and Sunday**
Reason: To protect the amenities of neighbouring residential properties in accordance with Policy E8 of the Test Valley Borough Revised Local Plan 2016.

- 7. The retail shop shall only open between the hours of 08:00-18:00 Mondays, Tuesdays and Wednesdays; 08:00-20:00 on Thursdays and Fridays and 08:00-18:00 on Saturdays, and not at all on Sundays or Bank Holidays.**
Reason: To protect the amenities of neighbouring residential properties in accordance with Policies LHW4 and E8 of the Test Valley Borough Revised Local Plan 2016.
- 8. Details of any external lighting to be installed shall be submitted to, and approved in writing by, the Local Planning Authority before any such installation is carried out.**
Reason: To protect the amenities of neighbouring residential properties in accordance with Policy E8 of the Test Valley Borough Revised Local Plan 2016.
- 9. The cold store as shown on drawing number 2011/01B has been removed from the site.**
Reason: To protect the amenities of the area and to ensure that it is not brought back into use in accordance with policies E2 and E8 of the Test Valley Borough Revised Local Plan 2016.
- 10. The shop attached to the unit shall be a member's only shop and will not be available to visiting members of the public.**
Reason: The site is within the countryside where it is not appropriate to locate a retail shop in accordance with Policy COM2 of the Test Valley Borough Revised Local Plan 2016.

Note to applicant:

- 1. In reaching this decision Test Valley Borough Council (TVBC) has had regard to the National Planning Policy Framework and takes a positive and proactive approach to development proposals focused on solutions. TVBC work with applicants and their agents in a positive and proactive manner offering a pre-application advice service and updating applicants/agents of issues that may arise in dealing with the application and where possible suggesting solutions.**
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